

II. Remarks

Applicant has amendments to claims 1, 2, 6, 8, 9, 20 and 22 to define more clearly the invention. It is believed that no new subject matter has been entered by the amendments submitted herewith.

On page 2 of the outstanding Official Action, the Examiner rejects claims 1-11, 13, 17-20, 21 and 22 under 35 U.S.C. §112 (second paragraph) as being indefinite. As the Examiner will see, Applicant has amended claims 1, 2, 6, 8, 9 and 22 to overcome the indefiniteness rejection of each of these claims. In each case, it is believed that the amendment is self-explanatory and serves to overcome the rejection.

The Examiner is requested to reconsider and withdraw the rejection of claims 1-11, 13, 17-19, 21 and 22 under 35 U.S.C. §112 (second paragraph).

The Examiner rejected claims 20-24 under 35 U.S.C. §102(b) as being anticipated by United States patent 3,718,472 (Oliver et al.). This rejection is traversed and reconsideration is requested.

To substantiate the rejection, the Examiner points to the compounds disclosed at the bottom of column 5 of Oliver. Initially, Applicant believes that the Examiner meant to refer to column 6 and is responding in that context. As the Examiner will see, claim 20 has been amended to clarify that, when R⁴ is C₁₋₆alkyl or phenyl, R² is not N(C₁₋₆alkyl)(C₁₋₆alkyl).

Applicant submits that this amendment serves to distinguish claim 20 from the compounds of Oliver referred to by the Examiner.

The Examiner is requested to reconsider and withdraw the rejection of claims 20-24 under 35 U.S.C. §102(b) as being anticipated by Oliver.

The Examiner rejected claims 20-28, 30, 31 and 35-37 under 35 U.S.C. §103(a) as being unpatentable over Tang et al. (WO 96/40629) in view of Roifman et al. (US 2003/0109502 or WO 01/79158). This rejection is traversed and reconsideration is requested.

The Examiner states that Tang et al. teach sulfonyl compounds having a linker comprising a CH=CH group. The Examiner states that the difference between the compounds of Tang et al. and the compounds of the rejected claims is the linker. The linker in the compounds in the rejected claims comprises a -CH=CH-CH=CH- group. The Examiner further states that Roifman et al. teach compounds having a "-CH=CH=CH=CH" linker, which Applicant believes should read "-CH=CH-CH=CH-". The Examiner concludes it would have been obvious to employ the linker taught in Roifman et al. in the compounds taught in Tang et al. in order to make alternatives to the sulfonyl derivatives taught by Tang et al. with the expectation of successfully using said compounds for modulating cell proliferation.

Applicant respectfully disagrees. As stated by the Examiner, Tang et al. teach sulfonyl compounds for the treatment of cell proliferative disorders. Roifman et al. teach styrylacrylonitrile compounds which are useful in treating a variety of cell proliferative disorders. Roifman et al. does not teach or suggest sulfonyl compounds for the treatment of cell proliferative disorders. There is no motivation in Roifman et al. to take the linker comprising the group -CH=CH-CH=CH- and use it in other compounds used to treat cell proliferative disorders. Specifically there is no teaching or motivation to use the linker group in sulfonyl compounds, and particularly in the sulfonyl compounds taught in Tang et al.

Further, there is no teaching or suggestion in Tang et al. to change the linker comprising the group -CH=CH-, which is required in all the compounds taught in Tang et al.

Applicant respectfully submits that it would not be obvious to make alternatives to the sulfonyl compounds of Tang et al. by employing a linker group taken from other compounds, and in particular non-sulfonyl compounds. Further Applicant respectfully submits that it would not be obvious to make such an alternative and have any expectation of success.

As stated above, the compounds taught in Roifman et al. are styrylacrylonitrile compounds comprising specific linker groups and specific moieties. There is no teaching or suggestion in Roifman et al. to take any part of one of the taught compounds and use it in a non-specified compound. Applicant submits that it would not be obvious to take a random piece of a known compound, and place it into another structurally different compound and have any expectation of producing a compound having any activity or specified use.

The Examiner is requested to reconsider and withdraw the rejection of claims 20-28, 30, 31 and 35-37 under 35 U.S.C. §103(a) as being unpatentable over Tang et al. in view of Roifman et al.

The Examiner provisionally rejected claims 12, 13 and 17-19 under 35 U.S.C. 101 as claiming the same invention as that of claims 12, 13 and 17-19 of copending Application No. 10/501,699. In response, Applicant has cancelled claims 12 and 13 from the pending claim set. Applicant has amended claim 17 to refer to the compounds of claim 1 only and to remove reference to the compositions of claim 13. Applicant submits that the double patenting rejection with respect to these claims may now be withdrawn.


The Examiner provisionally rejected claims 1-11 under nonstatutory obviousness-type double patenting as being unpatentable over claims 1-11 of copending Application No. 10/501,699. Further the Examiner provisionally rejected claims 1 and 20 on the ground of

nonstatutory obviousness-type double patenting as being unpatentable over claim 1 and 20 of copending Application No. 10/593,851. In response, Applicant is submitting a terminal disclaimer in respect of each of U.S. Application No. 10/501,699 and U.S. Application No. 10/593,851.

It is believed that the above remarks and amendments submitted herein have placed this present application in condition for allowance, and a Notice thereof is requested.

If the Examiner has further concerns, he is encouraged to contact Applicant's undersigned agent at 416-862-4312. All correspondence should continue to be directed to listed address shown below.

Respectfully submitted,



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